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## RECENT IMPORTANT DECISIONS

ADVERSE POSSESSION—COLOR OF TITLE—WRITTEN INSTRUMENT.—Where the defendant under a parol gift of an entire tract of land, but without any "paper" title, took actual possession of only a part of the tract, but claimed title up to its well-defined boundaries for the statutory period, it was held, in an action by the heirs of the donor, that the defendant had acquired title to the whole tract. *Nelson v. Johnson* (Ct. of App., Ky., 1920), 226 S. W. 94.

The general rule is that one must claim under "color of title" to acquire title to land by constructive adverse possession. See 18 MICH. L. REV. 693. The decisions are in conflict as to what constitutes "color of title." The majority view requires some sort of written instrument. 2 C. J. 170. See also 7 MICH. L. REV. 251; 18 MICH. L. REV. 693. It would seem that the reason for requiring "color of title" is to give some dependable means of determining the extent of the occupant's claim and in a measure to give notice of such claim to the owner. The necessity of a written instrument has been dispensed with under various circumstances. Where the adverse holder has had actual possession of a part of a tract under a state of facts which of themselves, though not adequate to constitute actual possession, show the character and extent of his claim, it has been held that "such facts \* \* \* perform sufficiently the office of color of title." *Bell v. Longworth*, 6 Ind. 273; *Hitt v. Carr*, 62 Ind. App. 80; *Stanley v. Schoolbred*, 25 S. C. 181. Where party claiming adversely entered without "color of title," actually occupied part of a lot with a definite boundary marked upon the land to which he claimed title, it was held he had constructive possession of the whole. *Hodges v. Eddy*, 38 Vt. 327; *Lang v. Clark*, 85 Vt. 222; *Pratt v. Ard*, 63 Kan. 182; *Le Moyne v. Neal*, 168 Ky. 292; *Miniard v. Napier*, 167 Ky. 208. Under facts similar to those of the principal case, where the party goes into possession of part of a tract with well-defined boundaries under a parol gift or contract of sale of the whole, a number of courts have held that the donor or vendor is charged with notice of the extent of the other party's claim, and that therefore, as between the immediate parties and their privies, no "color of title" is necessary for the doctrine of constructive adverse possession to apply. *Niles v. Davis*, 60 Miss. 750; *Davis v. Davis*, 68 Miss. 478; *Normant v. Eureka Co.*, 98 Ala. 181; *Brown v. Norvell*, 96 Ark. 609. But see *Parker v. Kelsey*, 82 Ore. 334; *Allen v. Mansfield*, 108 Mo. 343. In view of the theory for requiring "color of title," given *supra*, the cases seem correctly decided. That they are considered exceptional, see 2 C. J. 232; 2 A. L. R. 1457.

CARRIERS—LIMITATION OF THE AMOUNT OF LIABILITY.—The consignors delivered to the Pacific Mail Steamship Company, at Yokohama, Japan, on March 10, 1915, 56 cases of goods consigned to their own order at New York, billed through by way of the Southern Pacific Railroad and its connections. Only one rate was given in the bill of lading, and it contained a